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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,559	09/24/2004	Robert C. Redburn	FIS920040095	5558
32074 7590 02/07/2007 INTERNATIONAL BUSINESS MACHINES CORPORATION DEPT. 18G BLDG. 300-482 2070 ROUTE 52 HOPEWELL JUNCTION, NY 12533			EXAMINER TO, BAOQUOC N	
			ART UNIT 2162	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/07/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/711,559

Applicant(s)

REDBURN, ROBERT C.

Examiner

Baoquoc N. To

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-40 are pending in this application.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 9, 15, 24, 31 and 39 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

### **MPEP 2106 IV. B.2. (b)**

A claim that requires one or more acts to be performed defines a process.

However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

3. Claims 1-40 in view of the above cited MPEP section, are not statutory because claims they merely recite computing steps without producing any concrete, useful and tangible result and/or being limited to a practical application within the technological arts.

Claims 1, 9, 15, 24, 31 and 39 does not product any concrete, useful or tangible

Art Unit: 2162

results (for example claim 1 recites "formulating the ext query to retrieve data form the relational database where....; transmitting the text query to the relational database; causing the data to be returned from the relational database in accordance with the text query; and presenting the data in accordance with the said format." According to the claims limitations "causing data to be returned from the relational database..." which appears the return of data does not happen yet. Therefore, there is no concrete, useful and tangible result.)

In addition, claims 19 lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. There is no explicit definition to define the system (for example in paragraph 0002 and 0041). In according to paragraphs 0011 and 0012, the system appears to be software program or program per se.

Furthermore, claims 24, 31 and 39 recites "a computer-readable storage medium having stored therein instructions to perform, the method..." and "computer program product for ..." and "in a computer program product for interpreting a structured query language (SQL), the SQL used to formulate a text query to a relational database to cause data to be returned..."; however, there is no support from the specification (for example from paragraphs 0013 and 0015). Without the support from the specification "the computer-readable storage medium..." as reasonable to interpret to include the waves, signal, energy or any equivalent thereof. Even if "the computer-readable storage medium..." does some how has the support from the specification, without executing the instructions they are, at best, functional descriptive material *per se*. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994). Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.") And program code in claim 39 is non-statutory subject matter.

### **Specification**

4. The disclosure is objected to because of the following informalities: Applicant specification does not explicitly discloses "a computer-readable medium..." and "a

computer program product", since the claims recite "a computer-readable medium" and "a computer program product." The "computer-readable medium" and "computer program product" are covering waves, signals, energy or any equivalent thereof. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-40 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: "executing the text query." Without executing the query, the data cannot be retrieved or return and also cannot presenting the data...

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Barnes (US. Patent No. 6,993,533 B1).

Regarding on claims 1, 9, 15, 24, 31 and 39, Barnes teaches a method for obtaining information from a relational database, comprising the steps of:

Formulating a text query to retrieve data form the database, where a first portion of the text query specifies the data to be retrieved (fig. 10) and a second portion of text the query specifies a format for graphing the data (SQL commands, fig. 11) (lines 45-47);

Transmitting the query to the relational database (the query must be transmitted to the database before the execution and return the result of the search query) (col. 13, lines 58-60);

Causing data to be returned from the database in accordance with the text query (display a portion of an illustrative result set returned by the search query of fig. 5) (col. 13, lines 57-58);

Presenting the data in accordance with said format (bar chart, pie, charts...) (col. 12, lines 37-38).

Regarding to claims 2, 16, 25 and 32, Barnes a method according to claim 1, wherein the first portion of the query and the second portion of the query are for language (SQL) (relational) (col. 12, lines 45-48).

Regarding on claims 3, 11, 20, 26 and 33, Barnes teaches a method of claim 1, wherein the data is returned as a binary image and presented as a graph (bar chart, pie, charts...) (col. 12, lines 37-38).

Regarding on claims 4, 12, 21, 27 and 34, Barnes teaches a method of claim 1, wherein an image representation of data in ASCII format is returned from the database and presented as a graph (bar chart, pie, charts...) (col. 12, lines 37-38).

Regarding on claims 5, 13, 17, 28, 35 and 38, Barnes teaches a method of claim 1, wherein said step of causing the data to be returned comprising interpreting the query in accordance with a structure query language (SQL) having keywords and syntax for specifying format (SQL) (relational) (col. 12, lines 45-48);

Regarding on claims 6, 14 and 36, Barnes teaches a method of claim 5, wherein the graphical image is one of a line graph, a horizontal bar chart, a vertical bar chart, a pie chart, a scatter plot, a contour plot, and a wafer map, in accordance with a keyword in the second portion of the query (bar chart, pie, charts...) (col. 12, lines 37-38).

Regarding on claims 7, 19, 30 and 37, Barnes teaches a method according to claim 1, wherein said step of causing the data to be returned further comprises:

Interpreting the first portion of the query to cause the data to be retrieved (fig. 10);

Creating a dataset for the data (fig. 10);

Incorporating the data into the dataset (fig. 1); and

Constructing a graphical image using the data, in accordance with said format (col. 13, lines 10-56).

Regarding on claims 8, 17-18 and 40, Barnes teaches the method of claim 7, wherein said interpreting step further comprises parsing the query so that the first portion of the query and the second portion of the query are interpreted separately (fig. 10 and 11).

### ***Conclusion***

Art Unit: 2162

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Krehel (US. Patent No. 6,208,985 B1) Patent date: 03/27/2001.

Krehel discloses the method of using the SQL query to retrieve and graphically display the result in the graphical form.

**Contact Information**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is at 571-272-4041, or unofficial fax number for the purpose of discussion (571) 273-4041 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at 571-272-4107.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

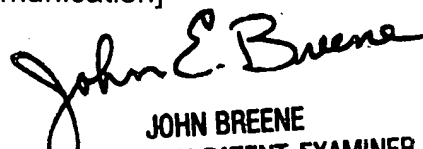
(571) –273-8300

[Official Communication]

BQ To

BQ

February 3<sup>rd</sup>, 2007

  
JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100